

# Commonwealth of Massachusetts

## Department of Industrial Accidents

### Office of Health Policy

#### UTILIZATION REVIEW AGENT MEETING

MINUTES: APRIL 13, 2004

#### UR Agent Companies Represented:

Allmerica Financial Corporation  
Arrow Mutual Liability Insurance Company  
Baystate Health System  
Berkley Administrations of Connecticut, Inc.  
BMEGateway  
Broadspire Services, Inc.  
Bunch and Associates, Inc.  
Cambridge Integrated Services Group, Inc.  
Central Mutual Insurance Company  
Charter Management Review Services  
Chubb Services Corporation  
Concentra Integrated Services, Inc.  
CorVel Corporation  
Crawford & Company  
EOSCOMP, L.L.C.  
First Health Group Corp.  
FutureComp  
Genex Services  
GUARDCo, Inc.  
Hatford Fire Insurance Company  
HDI  
Health International, Inc.  
Human Resources Division (HRD), WC Section

Injury Medical Review  
Intracorp  
Liberty Mutual Managed Care, Inc. (LMMC)  
MAC Risk Management, Inc.  
Managed Benefit Services, Inc.  
Managed Benefit Systems, Inc.  
Marriott International, Inc.  
MedInsights  
National Grid U.S.A.  
NSTAR  
Procura Management, Inc.  
Quality Review Associates (QRA)  
Raytheon Company  
Sargent Medical Review  
Sedgwick Managed Care  
Stephenson & Brook Co., Inc.  
Travelers Medical Management Services  
Windham Group  
Zurich Services Corporation

City of Boston  
MCMC

#### Other Attendees:

Dean M. Hashimoto, MD, JD, Chair, Health Care Services Board  
The Honorable Daniel O'Shea, Sr. Judge, Dispute Resolution, Department of Industrial Accidents  
Jack Tynan, Director of Administration, Department of Industrial Accidents  
Judith A. Atkinson, Esq., Assistant General Counsel, Department of Industrial Accidents  
Catherine R. Farnam, Director, Office of Health Policy, Department of Industrial Accidents  
Sandra Brown, UR Coordinator, Office of Health Policy, Department of Industrial Accidents  
Fran Clarke, CRS Data Coordinator, Office of Health Policy, Department of Industrial Accidents  
Hella Dalton, Research Analyst, Health Care Services Board, Department of Industrial Accidents

**Location:** *Boston Public Library  
700 Boylston Street  
Copley Square, Boston*

**Meeting Convened @:** 10:00 AM  
**Meeting Adjourned @:** 12:30 PM

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#### **I. Complaints:**

**A.** Statistical data was presented for 2003 UR Agent Complaint Processing. A total of fifteen complaints were filed against UR Agents in 2003.

**B.** Violations substantiated by complaints included:

- a.** Failure of the agent to render a notice of adverse determination.
- b.** Failure of the agent to issue determination notices to the employee and provider as required.

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#### **I. Complaints:**

##### **B. Violations substantiated by complaints included - Continued:**

- c. Failure of the agent to issue notice within time constraints.
- d. Failure of the agent to issue appeal-level determinations within time constraints.
- e. Failure of the agent to provide a same school review when issuing an adverse determination.
- f. Failure of the agent to provide all of the reasons for the AD.
- g. Failure of the agent to inform the provider and injured worker of their rights and responsibilities.
- h. Failure of the agent to comply with the telephone requirements of 452 CMR 6.0.
- i. Failure of the agent to issue an ID card (if delegated by insurer).
- j. Failure of the agent to issue an introductory letter.
- k. Failure of the agent to provide detailed timelines of events.
- l. Failure to conduct utilization review as required, instead of case management.

C. Sandra Brown completed a complete review of complaint procedures and timelines.

#### **II. Same School Review:**

A. Provided a review of the regulation MGL c. 233 79G as it pertains to practitioners who may render a same school review. Includes, but is not limited to, chiroprodists, chiropractors, optometrists, osteopaths, physical therapists, occupational therapists, psychologists, and other medical personnel licensed to practice, such as advanced practice nurses, dentists, osteopaths, allopaths, and acupuncturists.

B. Definition of school reviewed: "A grouping of practitioners defined by their professional degree".

C. The role of the same school reviewer. The department discussed the role of physician advisors. It appears, in many cases, physician advisors do not appear to understand their role, and education is required. Agents were informed that a peer advisor, i.e. same school practitioner, is required to weigh the medical evidence before them regarding medical necessity and appropriateness and render an opinion based on standards of clinical practice, i.e. clinical guidelines and review criteria.

The same school practitioner may not direct the care of the ordering provider. After a review of the diagnosis and clinical guidelines, the reviewer may approve or deny the request based on a valid, objective, scientifically based clinical rationale. The reviewer cannot negotiate or direct the care of the ordering practitioner. They may suggest an alternate level of care, if the medical documentation provided does not support the approval of the ordering provider's request. However, the alternate level of care approved must be clinically based and documented as such.

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## II. Same School Review:

### C. The role of the same school reviewer - Continued:

Example: a chiropractor requests initial 18 visits. The process is as follows:

1. If the clinical documentation supports medical necessity for chiropractic care, but does not support medical necessity for an initial 18 visits (requested by ordering practitioner) and,
2. The guideline allows: "**up to 18 visits in the first six weeks**", the reviewer *may approve a lesser amount, if the medical/clinical documentation indicates: chiropractic care is medically necessary, but does not support a request for 18 visits at this time. The medical documentation submitted supports a minimal number of visits (8). If there is objective clinical improvement within these eight visits, additional visits will be considered concurrently.*
3. This type of determination is considered clinically based and is not a negotiation or an attempt on the part of the reviewer to direct the care of the ordering practitioner. The major point being, the UR reviewer determined 8 visits to be medically necessary, but 18 visits would be inappropriate to approve, without any objective clinical information to support this approval and this determination is supported by the medical documentation provided and reviewed. Clinically, this would be hard to substantiate without objective clinical findings (i.e. no care rendered). The reviewer may inform the ordering provider that there are not sufficient objective clinical findings to support their request for 18 visits, however, the clinical findings support the approval of a lesser amount (8) with a concurrent review. If the concurrent clinical findings demonstrative objective clinical improvement, additional visits may be approved.
4. Many questions have arisen concerning the issue of same school practitioner and ordering practitioner. It is the department's position that when a referral/consult is made by a physician to another licensed prescriber (the most common being PT), the PT becomes the ordering/treating provider and the same school reviewer must be a PT. The new treating provider becomes the ordering provider.

## III. Compensability:

Many questions have arisen regarding compensability and utilization review. A review of the regulations and statute follows:

**452 CMR 6.0** requires workers' compensation insurers to undertake utilization review of all claims, irrespective of date of injury for health care services rendered on or after October 1, 1993.

The regulation applies to all insured or insured persons, as defined in **152-(1) (p.8)**, "an employer who has provided by insurance for the payment of his employees by an insurer of the compensation provided by this chapter."

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### III. Compensability Continued:

#### **152 section 6:**

Within seven calendar days, not including Sundays and legal holidays, of receipt of notice of any injury alleged to have arisen out of, and in the course of employment which incapacitates an employee from earning full wages for a period of five or more calendar days, the employer shall furnish notice of injury to the division of administration, the employee, and the insurer.

Upon receipt of notice of injury from the employer, or any other indication of a compensable injury, the division of administration shall immediately mail, post paid, to the injured worker an informational brochure as prescribed by the division which sets forth in a clear and understandable language a summary statement of the rights, benefits, and obligations of injured workers under this chapter.

#### **152 section 7:**

Within fourteen days of an insurer's receipt of an employer's first report of injury, or an initial written claim for weekly benefits on a form prescribed by the department, whichever is received first, the insurer shall either commence payment of weekly benefits under this chapter or shall notify the division of administration, the employer, and, by certified mail, the employee, of its refusal to commence weekly benefits, Any grounds and basis for noncompensability specified by the insurer shall, unless based upon newly discovered evidence, be the sole basis of the insurer's defense on the issue of compensability in any subsequent proceeding.

As stated in the meeting, UR is mandated for all compensable claims. Initial compensability or non-compensability, as stated above, is determined within fourteen days of an insurer's receipt of an employer's first report of injury.

As discussed in the meeting, the UR agent is responsible to verify compensability with the WC carrier prior to completing a medical determination. It is recommended that agents ask the WC carrier for copies of all notification letters sent to injured employees regarding the compensability status of the claim. If the status of the claim changes, the UR agent may forward a copy of any compensability notice from the WC carrier to the ordering provider, employee or employee representative should questions arise.

### IV. Workshop:

A Workshop on the application of the *HCSB Guidelines in Prospective, Concurrent and Retrospective Utilization Review Determinations* is being offered on **May 20, 2004** for UR agents. The workshop will be repeated again on **June 23, 2004** for anyone who wishes to attend, but is unable to attend the May 20<sup>th</sup> meeting. I have reserved the 7<sup>th</sup> floor conference room at the DIA from 11:00 AM until 1:00 PM on both of these dates. The address is 600 Washington Street, Boston Ma. Please register with me at (617) 727-4900 x425 as the space is limited in this conference room. If there is a large response I will schedule a third meeting date.